DETAILED ACTION

1. The instant application 10501488 has a total of 22 claims pending in the application; there are 3 independent claims and 19 dependent claims, all of which are ready for examination by the examiner. This office action is in response to the applicant's claims filing date 04/16/2012.

2. Examiner objected to claim 53 as allowable if incorporated in all the independent claims.

Claim Rejections - 35 USC § 101

3. Claim(s) 118-126,137 rejected under 35 USC 101 since the claims are directed to non-statutory subject matter. Claim 118 recite an article of manufacture including a computer readable medium in the claim which appear to cover both transitory and non-transitory embodiments. The United States Patent and Trademark Office (USPTO) is required to give claims their broadest reasonable interpretation consistent with the specification during proceedings before the USPTO. *See In re Zletz*, 893 F.2d 319 (Fed. Cir. 1989) (during patent examination the pending claims must be interpreted as broadly as their terms reasonably allow). The broadest reasonable interpretation of a claim drawn to a computer readable medium (also called machine readable medium and other such variations) typically covers forms of non-transitory tangible media **and**

transitory propagating signals *per se* in view of the ordinary and customary meaning of computer readable media, particularly when the specification is silent. *See* MPEP 2111.01. When the broadest reasonable interpretation of a claim covers a signal *per se*, the claim **must** be rejected under 35 U.S.C. § 101 as covering non-statutory subject matter. *See In re Nuijten*, 500 F.3d 1346, 1356-57 (Fed. Cir. 2007) (transitory embodiments are not directed to statutory subject matter) and *Interim Examination Instructions for Evaluating Subject Matter Eligibility Under 35 U.S.C. § 101*, Aug. 24, 2009; p. 2

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 52-55,118-137 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al (U.S. 7,313,386) and further in view of Puller et al (U.S. 2002/0091840).

As per claims 52,118, 127,134-137 Kondo disclosed a method comprising: a server storing an image element, wherein the image element is usable to perform an image reconstruction process to generate an image, wherein the image reconstruction process includes a plurality of operations; the server identifying a communication parameter

associated with a client; of the server identifying a processing parameter of the client (col. 6, lines 52-67); the server receiving a request to provide the image to the client; the server selection a set of the plurality of operations based at least in part on the processing parameter and the communication parameter; for each element to meet the task requirement the server performing the set of the plurality of operations to generate a processed image element, wherein the performing uses the stored image element (col.7, lines 1-14).

However Kondo did not disclose in detail the server sending the processed image element to the client, wherein the client is configured to perform remaining ones of the plurality of operations using the processed image element to display the image.

In the same field of endeavor Pulier disclosed the MPH sniffer module is a client-side application that is triggered at step 106 by user access of the streaming media web page. It calculates the current bandwidth from the client machine to the web page server, checks to see whether the client has the necessary components required to experience the streaming media etc. The information gathered by the sniffer module gives the MPH process an initial of where to start in the provider selection process. Processing continues non FIG. 3 as shown by the continuation indicator 108 (Page. 2, Paragraph. 0017).

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to have incorporated the MPH sniffer module is a client-side application that is triggered at step 106 by user access of the streaming media web page. It calculates the current bandwidth from the client machine to the web page server, checks to see whether the client has the necessary components required to experience the streaming media etc. The information gathered by the sniffer module gives the MPH process an initial of where to start in the provider selection process. Processing continues non FIG. 3 as shown by the continuation indicator 108 as taught by Pulier in the method and system of Kondo to reduce latency and optimizing communication between the client and the server.

5. As per claim 54 Kondo-Pulier disclosed wherein at least one of the first processed image elements is a larger file size than the corresponding at least one of the second processed image elements (Pulier, Page. 1, Paragraph. 0013).

6. As per claim 55 Kondo-Pulier disclosed wherein said selection is performed to reduce rendering time for the image by the client task (Pulier, Page. 2, Paragraph. 0022).

7. As per claims 119,128,131 Kondo-Pulier disclosed the operations further comprising: storing a set of image processing instructions at the computer system; and transmitting the set of image processing instructions to the client, wherein the client is

configured to execute the set of image processing instructions using the partially processed version of the image to display the image (Kondo,col. 33, lines 41-65).

8. As per claims 120,129 Kondo-Pulier disclosed wherein the at least one characteristic includes a processing speed of the client and a bandwidth of a communication channel available to the client, and wherein said determining comprises: identifying the processing speed; identifying the bandwidth; and selecting the first portion of the plurality of tasks to be performed by the computer system based at least in part on the processing speed and the bandwidth (Pulier, Page. 1, Paragraph. 0013).

9. As per claims 121,130 Kondo-Pulier disclosed wherein said selecting minimizes a time between the computer system performing said transmitting and the client displaying the image (Kondo, col. 76, lines 4-23).

10. As per claim 122 Kondo-Pulier disclosed the operations further comprising: selecting a second portion of the plurality of tasks to be performed by the client (Kondo, col. 16, lines 3-16).

11. As per claims 123,132 Kondo-Pulier disclosed wherein the selecting the first portion of the plurality of tasks includes determining that the bandwidth is above a threshold (Pulier, Page. 2, Paragraph. 0020).

12. As per claim 124 Kondo-Pulier disclosed wherein the selecting the first portion of the plurality of tasks includes determining that the bandwidth is below a threshold (Pulier, Page. 2, Paragraph. 0020).

13. As per claims 125,133 Kondo-Pulier disclosed wherein the selecting the first portion of the plurality of tasks includes determining that the processing speed of the client is below a threshold (Pulier, Page. 2, Paragraph. 0019).

14. As per claim 126 Kondo-Pulier disclosed wherein the selecting the first portion of the plurality of tasks includes determining that the processing speed of the client is above a threshold (Pulier, Page. 2, Paragraph. 0019).

15. **Examiner's notes:** Examiner has cited particular columns and line numbers in the reference(s) applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art

or disclosed by the Examiner. In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Response to Arguments

16. Applicant's arguments with respect to claims 52-55,118-137 have been considered but are moot because the arguments do not apply to any of the references being used in the current rejection.

Conclusion

17. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Adnan Mirza whose telephone number is (571)-272-3885.

18. The examiner can normally be reached on Monday to Friday during normal business hours. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger can be reached on (571)-272-4170. The fax for this group is (703)-

746-7239. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

19. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for un published applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866)-217-9197 (toll-free).

/ADNAN MIRZA/

Primary Examiner, Art Unit 2443